

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Beth Goldstein et al.

Art Unit.: 1631

Serial No.: 09/120,030

Examiner: M Borin

Filed: 07/21/1998

Entitled: **METHOD FOR THE TREATMENT OF STAPHYLOCOCCAL DISEASE**

**RESPONSE TO FINAL OFFICE ACTION
MAILED 31 AUGUST 2009**

EFS WEB FILED

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Examiner Borin:

Applicants respectfully assert, as described herein, that the Office made in error in issuing a Final Office Action, and instead submit that the Office Action should have been a Non-Final Action. For the reasons stated herein, Applicants respectfully request the Office withdraw the Finality of the Office Action issued 05 May 2010.

The following communication is being filed in conjunction with a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114 and is responsive to the Final Office Action mailed 05 May 2010. A request for a three month extension of time accompanies this communication.

It is not believed that any additional fees are necessary. However, if any fees are due, Applicants hereby authorize the Commissioner of the Patent and Trademark Office to charge Attorney Deposit Account No. **50-4302** any fees associated with this communication. Please reference Attorney Docket No.: N21-30545/US-1/ORD when charging the Attorney Deposit Account.